

# **EXHIBIT Z**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

CELESTE WILLIAMS, LAUREN CRUZ, EMANUEL  
O'NEALE, BRANDON STURMAN, LATRESHA HALL,  
LAKEISHA MITCHELL, CHRISTINE BORBELY and  
JANINE APONTE on behalf of themselves and  
others similarly situated,  
Plaintiffs,

-against-

Index No.  
07cv3978

TWENTY ONES, INC., d/b/a THE 40/40  
CLUB, SHAWN CARTER p/k/a JAY-Z,  
JUAN PEREZ and DESIREE GONZALES,  
Defendants.

- - - - -X

January 28, 2008  
1:26 p.m.

DEPOSITION of CELESTE WILLIAMS, a Plaintiff  
herein, taken pursuant to Notice, and held  
at the offices of Littler Mendelson, P.C.,  
885 Third Avenue, New York, New York, before  
Leeann Bertorelli, a Court Reporter and  
Notary Public of the State of New York.



CELESTE WILLIAMS

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1 A. Yeah, I would have to have then.  
2 Because I don't remember. Like I'm not -- so far  
3 with dates when I worked at Circuit City, I  
4 wasn't exact. Like which dates I worked there.  
5 I do know I didn't work there at the same time.  
6 So I'd have to have worked there after, after  
7 that.

8 **Q. How did you apply for work at the**  
9 **40/40 Club?**

10 A. I found it on Craigslist. Under the  
11 restaurant jobs, they have a section for just  
12 bartenders and waitresses and everything like  
13 that. So I found it there. I sent a picture and  
14 my contact information. And I got called in.

15 **Q. Who did you send your picture and**  
16 **contact information to?**

17 A. There was just an e-mail address you  
18 just send it to. A lot of people don't give  
19 their real e-mails addresses. They have a  
20 Craigslist address to apply to.

21 **Q. Okay. And, I'm sorry, did you say**  
22 **someone called you?**

23 A. Either someone called me or I  
24 believe they had an open call, but it may -- I

1 **be saved on your computer perhaps?**

2 A. No, because I have a new computer  
3 since then.

4 **Q. And tell me about when you met with**  
5 **Desiree that first day.**

6 A. She told me basically what I'd be  
7 doing. She's like, okay, well, we'll have you  
8 come in. And I was told what to wear, all black.  
9 So I came in that day, and that's when I told  
10 you I followed a server around that day.

11 **Q. And that was the same day that you**  
12 **came in for the interview?**

13 A. No, it was maybe a couple of days  
14 later.

15 **Q. Okay. So it was Desiree who hired**  
16 **you for the position?**

17 A. Yes.

18 **Q. Do you know if anyone else had any**  
19 **involvement in that decision?**

20 A. No.

21 **Q. Did you discuss how you would be**  
22 **paid?**

23 A. Not at the time, the day, no.

24 **Q. Okay. But you had an expectation** 21

1 think -- I'm not sure. I don't really remember  
2 if I was called, or if they had the open call and  
3 I went down there.

4 **Q. Okay. But at some point you went to**  
5 **the 40/40 Club?**

6 A. Yes.

7 **Q. And who did you meet with?**

8 A. I met with Desiree.

9 **Q. And did you fill out any paperwork**  
10 **at that time?**

11 A. No.

12 **Q. And Desiree interviewed you?**

13 A. Yes.

14 **Q. How long did that last?**

15 A. Not long at all. I think I said I  
16 didn't have a resume. I think I did have a  
17 resume, and she told me, you don't really have  
18 any experience, something like that.

19 **Q. Do you still have a copy of that**  
20 **resume?**

21 A. It's updated since then, but I'm  
22 sure I probably -- I might have one laying  
23 around.

24 **Q. You might have -- would that version**

1 **that you would make more than you had at Circuit**  
2 **City?**

3 A. Yes, because usually, so far with  
4 tips and with also receiving a paycheck, it  
5 usually tends to add up to more.

6 **Q. How much did you make a week at**  
7 **Circuit City?**

8 A. Maybe -- I'm not really sure how  
9 much I made a week.

10 **Q. And how much did you make a week at**  
11 **the 40/40 Club?**

12 A. It was kind on and off. Cause it  
13 was only based on tips, so it wasn't -- there was  
14 no set.

15 **Q. I guess, actually, if you started in**  
16 **the middle of December and ended at the end of**  
17 **December you only worked for about two weeks at**  
18 **the 40/40 Club?**

19 A. No.

20 **Q. All right. Well, you started**  
21 **sometime after December 9th?**

22 A. Yes.

23 **Q. And you stopped on December 31st?**

24 A. Yes.

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1 Q. So at the most, three weeks?

2 A. Yeah, I guess you could say three to  
3 four weeks.

4 Q. Well, how could you say four weeks  
5 if it was less than a month?

6 A. Okay. Well, three weeks.

7 Q. In those three weeks, do you recall  
8 how much you made in tips?

9 A. No, I don't.

10 Q. Did you have to declare your tips?

11 MR. FREDERICKS: Objection.

12 Anything related to her making any  
13 declaration for tips or filing tax  
14 returns, number one, it's irrelevant.  
15 Number two, there's a presumption against  
16 the discoverability of this information.  
17 Number three, it's protected by the Fifth  
18 Amendment. I instruct you not to answer  
19 any questions about you declaring  
20 anything, and your tax returns.

21 MS. SHEINKIN: I didn't ask her  
22 about her tax returns. I'm asking about a  
23 process at the 40/40 Club.

24 MR. FREDERICKS: Well, you weren't  
23

1 clear about that.

2 MS. SHEINKIN: That's fair. I'll  
3 get back to it.

4 Q. Did you have to clock in at the  
5 40/40 Club?

6 A. Yes.

7 Q. You needed to do that in order to  
8 receive wages -- I'm sorry. In order to put in  
9 customer's orders?

10 A. Yes.

11 Q. And did you clock in every day you  
12 worked at the 40/40 Club?

13 A. Yes.

14 Q. Did you clock out?

15 A. Yes.

16 Q. And when you clocked out, were you  
17 required to declare the amount of tips you had  
18 made that day?

19 A. You had to - basically, you carried  
20 all the money with you, so you get your tip out,  
21 the whole bill of all the sales you made at the  
22 end of the night. So you pay the house, which is  
23 Desiree, the club; you give them all the money  
24 that comes from the servers. And whatever's left

1 over is your tips. Out of those tips you have to  
2 tip the bartender, the busser, and the food  
3 runner.

4 Q. Uh-huh. My question was: When you  
5 clocked out, were you required to declare how  
6 much you had made in tips?

7 A. No.

8 Q. So you could clock out without  
9 reporting any tips?

10 A. Uh-huh.

11 Q. And throughout your employment at  
12 the 40/40 Club you were a server?

13 A. Yes.

14 Q. Do you know anyone else who worked  
15 there when you began?

16 A. There was a girl named Candy; she  
17 worked there. There was a guy named David.

18 Q. I'm sorry. Let me clarify. Before  
19 you began working there, did you know anyone?

20 A. No.

21 Q. Okay. Go ahead. You were telling  
22 me the people that you know were also employed  
23 when you began. So you said Candy and David,  
24 were they also servers?

25

1 A. Yes.

2 Q. Okay.

3 A. Who else, I think there was a girl  
4 named Gloria. I think that was her name. I  
5 don't remember. Who else? I don't really  
6 remember. A whole bunch of other people.

7 Q. How did your employment end?

8 A. After December 31st I decided not to  
9 go back.

10 Q. That was a voluntary decision?

11 A. Yes.

12 Q. You were not terminated?

13 A. No.

14 Q. Going back to your employment  
15 application, you indicate that the reason for  
16 leaving Circuit City was a conflict with wages.

17 A. Uh-huh.

18 Q. What do you mean by that?

19 A. It wasn't so much a conflict with  
20 wage. I just wanted to make more money. At the  
21 time I was a student, and I had stuff that I had  
22 to handle. I needed to buy books, just so much.  
23 And I didn't want to work there anymore.

24 Q. So your conflict with wages is you

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1 managers. Like usually people who run it; they  
2 were there. Either Charlie, Meron, somebody was  
3 there.

4 **Q. A manager, but not regular staff**  
5 **that did administrative work, assistants?**

6 A. Yes.

7 **Q. Telephone receptionists?**

8 A. Oh, no, no.

9 **Q. So just tipped employees and a**  
10 **manager?**

11 A. Uh-huh.

12 **Q. And the manager ran the meeting?**

13 A. Yes.

14 **Q. Do you recall at the meetings you**  
15 **attended who that manager was?**

16 A. I forgot. It was one of the twins.  
17 He had dreads. I don't remember his name.  
18 Sometimes he'd be there; sometimes Charlie would  
19 be there, or Meron, M-E-R-O-N.

20 **Q. Was Shawn Carter ever present for a**  
21 **staff meeting?**

22 A. No.

23 **Q. Was Juan Perez ever present for a**  
24 **staff meeting?**

1 A. No.

2 **Q. Did you understand that the tips you**  
3 **received were income to you?**

4 A. Income, yes.

5 **Q. And that they were subject to a tax**  
6 **withholding?**

7 A. No.

8 **Q. You didn't know that?**

9 A. No.

10 **Q. Did you know that the club was**  
11 **withholding taxes on your tips from your regular**  
12 **wages?**

13 A. No.

14 **Q. Other than what the club withheld,**  
15 **did you pay any taxes --**

16 MR. FREDERICKS: Objection.

17 **Q. -- for tips you earned at the 40/40**  
18 **Club?**

19 MR. FREDERICKS: Objection. I  
20 instruct you not to answer that question  
21 by the same basis that I had in my prior  
22 objection.

23 MS. SHEINKIN: Well, your objection  
24 was that it's irrelevant. And what she

1 received in tips and taxes paid on that is  
2 relevant to this suit. It directly goes  
3 to what wages she would be due.

4 MR. FREDERICKS: It's not only an  
5 objection of relevancy; it's also  
6 objection because the information isn't  
7 discoverable, and she's got a Fifth  
8 Amendment protection as well.

9 MS. SHEINKIN: Well, it is  
10 discoverable if it is relevant.

11 MR. FREDERICKS: I instruct you not  
12 to answer any questions regarding that.

13 **Q. Are you taking the Fifth Amendment**  
14 **with respect to that question?**

15 A. Yes.

16 **Q. What time did the 40/40 Club open?**

17 A. I think about 11.

18 **Q. In the afternoon?**

19 A. Yes.

20 **Q. And when did it close?**

21 A. 4, 4 a.m.

22 **Q. Did it ever close before 4?**

23 A. No.

24 **Q. There were no days when the club**

1 **closed early?**

2 A. No, not to my knowledge.

3 **Q. So when you were there it always**  
4 **closed at 4?**

5 A. Yes.

6 **Q. Okay. And what would you do after**  
7 **closing?**

8 A. After closing, you have to go to  
9 wherever your section was for the day and scrub  
10 the cubes, clean up, and make sure it was squeaky  
11 clean. And wait for everyone else to finish.  
12 Then after that you do your tip out, where you  
13 hand in your bill for the night, and all the  
14 money you had.

15 **Q. So you would clean before you cashed**  
16 **out?**

17 A. I don't remember which way it was,  
18 unless you cashed out -- I think you cleaned  
19 before you cashed out.

20 **Q. So you were cleaning you still had**  
21 **all that money on you?**

22 A. I think so. I don't remember which  
23 way it went. I don't remember if you cashed out  
24 while you cleaned. I don't remember which way it

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1 else may have that would refresh your  
2 recollection?

3 A. If they have them, yes.

4 Q. What records?

5 A. I don't know what you mean by "what  
6 records." I guess me clocking in and clocking  
7 out?

8 Q. Other than that, are there -- do you  
9 have any other evidence that would establish that  
10 you worked more than ten hours in a day?

11 A. Not really. Just knowing what time  
12 I was going there.

13 Q. What do you mean?

14 A. Like I know what times I used to go  
15 to work like --

16 Q. And you think you went to work at  
17 11:45 two or three times a week?

18 A. Maybe like, yeah. I mean like two,  
19 three times a week.

20 Q. Is it your contention --

21 A. But I'm not quite sure. I'm not  
22 exact on how many times I did that a week. But I  
23 know that there were times when I did go in at  
24 11:45.

1 Q. But the club didn't always open at  
2 11:45; did it?

3 A. I'm not sure. I don't think. But I  
4 remember going there early.

5 Q. Okay. And you'd only go there at  
6 11:45 if the club was open at that time?

7 A. Yes.

8 Q. How was your schedule relayed to  
9 you?

10 A. Excuse me?

11 Q. How was your schedule relayed to  
12 you?

13 A. It was like really long hours.

14 Q. I'm wondering how you were informed  
15 of what your schedule was going to be?

16 A. I don't remember.

17 Q. Do you know who made your schedule?

18 A. I think you basically tell them what  
19 time -- like what days you want to come in. You  
20 put in for what days. I don't know if you get to  
21 put the times. I don't remember if you get to  
22 put the times down that you want to come in.

23 Q. So you don't recall who made your  
24 schedule?

1 A. I know what days. I know they have  
2 a sheet where you put in for what days you want  
3 to work. But I don't know how -- I don't know if  
4 you -- I don't remember if you get to put the  
5 times down as well though.

6 Q. Okay. But then someone made a  
7 schedule based on your submissions?

8 A. Yes.

9 Q. Do you know who did that?

10 A. No.

11 Q. How many times did you submit a form  
12 saying what you wanted your schedule to be?

13 A. Like three or four times.

14 Q. Did you ever ask for your schedule  
15 to be changed after it had been made for the  
16 week?

17 A. No. Sometimes you could like -- if  
18 you don't like it, you could see if another  
19 server would work for you or switch days with  
20 you.

21 Q. Did you need to get approval for  
22 that?

23 A. I don't remember.

24 Q. Do you have any specific knowledge

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1 concerning the hours worked by any other  
2 employee?

3 A. No, but I know their hours are also  
4 long. I'm not -- I don't -- I wasn't really  
5 paying attention -- I don't pay attention to  
6 other people's direct hours, like what time they  
7 came, what time they left. But everyone worked  
8 long hours.

9 Q. But you only have specific knowledge  
10 concerning your own hours?

11 A. Yes.

12 Q. Did you ever request any time off?

13 A. No, that was basically covered in  
14 your sheet. The days, whatever days you didn't  
15 select, those are basically your days off, if it  
16 was given to you.

17 Q. Did you ever forget to clock out?

18 A. No.

19 Q. Do you know what the procedure was  
20 if you forgot to clock out?

21 A. No.

22 Q. And you testified that you could  
23 clock out without reporting your tips?

24 A. Yes.

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1 MS. SHEINKIN: I'm going to mark  
2 this as Williams Exhibit C.

3  
4 (Williams Exhibit C,  
5 NOTICE OF DISCIPLINARY  
6 ACTION, was marked for  
7 identification.)  
8

9 Q. Williams Exhibit C is a notice of  
10 disciplinary action.

11 A. I don't remember not punching out.  
12 Like not punching out, doesn't that mean that you  
13 don't get your bill at the end of the night?

14 Q. By clocking out, I mean when you  
15 were done with your shift you would clock out on  
16 POSitouch to indicate that you were no longer  
17 working for the night.

18 A. Yeah, but if you don't -- you get  
19 your punch out the same time you get your bill at  
20 the end of the night for the sales that you made.  
21 So I don't remember not -- to my knowledge, I  
22 don't remember not punching out.

23 Q. Well, what do you mean? Explain to  
24 me what you mean by "punching out."

1 A. When you get your bill at the end of  
2 the night for all the sales that you made, you  
3 hand that in, and then you would signed out. You  
4 go to the manager, and they sign you out.  
5 They're standing right there, basically.

6 Q. Okay. Did you clock out on the  
7 POSitouch system?

8 A. Yes.

9 Q. Is that separate from signing out?

10 A. No, because your bill is printed  
11 from that as well.

12 Q. When you came in before you took any  
13 orders you would clock in on the POSitouch  
14 system.

15 A. Uh-huh.

16 Q. And that would be some number that  
17 you would -- some employee number you could put  
18 in?

19 A. Yes.

20 Q. And when you left for the day, would  
21 you also punch in that number to leave?

22 A. I guess so, but I don't remember  
23 doing that. I remember when you get your bill  
24 and whatever food you ordered the manager swipes

1 their card; you got your discount for the food.  
2 and you sign out. They sign you out.

3 Q. When you say "sign out," is that on  
4 a piece of paper?

5 A. Punch out, like same thing like on  
6 the machine.

7 Q. So you would physically punch out on  
8 the machine?

9 A. No, I don't -- I believe that you  
10 had to be punched out.

11 Q. Okay. So you don't have any  
12 recollection of ever yourself clocking out using  
13 the POSitouch system?

14 A. No.

15 Q. And is this your signature on the  
16 bottom of exhibit -- Williams Exhibit C, where it  
17 says sign?

18 A. Yes, it is.

19 Q. And this indicates that you did, at  
20 least on one occasion receive a warning for  
21 failing to punch out?

22 A. Yes, which I don't remember. But  
23 it's on paper, so.

24 Q. You don't recall receiving this?

1 A. No, I don't.

2 Q. You don't recall signing this?

3 A. No.

4 Q. How are you assigned to the section  
5 where you were going to be doing service for the  
6 night?

7 A. Basically, when you came in, there's  
8 like a map of the club; they had the upstairs  
9 floor, and the downstairs floor. And you just  
10 look for your name on the map.

11 Q. Do you know who created that?

12 A. Usually, the managers would write  
13 your name on it.

14 Q. Who were the managers when you  
15 worked at the 40/40 Club?

16 A. Charlie, Meron, and one of the black  
17 guys. He had dreads. I don't remember his name.  
18 But there were two of them. So I don't remember  
19 which is which.

20 Q. Did they work there at the same  
21 time?

22 A. One was there. Sometimes they were  
23 both there. But they were all there when I was  
24 there.

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1 Q. And you served both tables and  
2 customers who were standing?

3 A. Yes. Well, usually, not the ones  
4 who stood, because they would just go to the bar  
5 themselves.

6 Q. So mostly tables?

7 A. Yes.

8 Q. All right. And let's go through the  
9 process of how that worked.

10 A. Uh-huh.

11 Q. You would take their order --

12 A. Basically, you stand at the door,  
13 and when customers come in, you seat them and  
14 take their orders. When you were finished you  
15 give them their bill, and they pay you, whether  
16 it's cash, credit cards, like that. And you just  
17 go to the machine; you put the payment in, and  
18 basically, you just keep the money on you.

19 Q. Okay. And when you took the order,  
20 that's something you would put into the  
21 POSitouch --

22 A. Uh-huh.

23 Q. -- system? And when you brought the  
24 food or drink, some people paid you cash?

1 A. Yes.

2 Q. And did you always do that?

3 A. Yes.

4 Q. And if people paid with a credit  
5 card --

6 A. Uh-huh.

7 Q. -- you would go through the steps  
8 you mentioned before?

9 A. Yes.

10 Q. And what would you do with those  
11 documents?

12 A. You keep the copy and the receipt,  
13 and you keep it on you. So at the end of the  
14 night you turn that in also.

15 Q. And that's the cash out process you  
16 were talking about?

17 A. The what?

18 Q. The cashing out process?

19 A. Yes.

20 Q. Tell me about that.

21 A. At the end of the night when you  
22 cash out? At the end of the night you get your  
23 bill; it tells you how much you sold in food,  
24 drinks, retails. And it basically tells you what

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1 A. Yes.

2 Q. Did they pay right away when you  
3 brought the food -- did you bring the bill along  
4 with the food and drink?

5 A. No, you usually bring the bill after  
6 the food.

7 Q. Okay.

8 A. Or they usually ask you, can I have  
9 the bill now.

10 Q. And if they give you cash, you would  
11 take that cash --

12 A. Yes.

13 Q. -- and hold it for the rest of the  
14 night?

15 A. Yes.

16 Q. And both the money that belonged to  
17 the club for the sale, and your tip?

18 A. Yes.

19 Q. And you routinely tip 20 percent; is  
20 that correct?

21 A. Yes.

22 Q. And that was a function that you on  
23 the POSitouch system that you could add to each  
24 bill?

1 you have to pay the club. So the money that you  
2 have on you, which is all the money from your  
3 orders that you took for the whole day. So  
4 whatever the total is, you count that out, and  
5 turn that into the club with your credit card  
6 statement, with the imprint.

7 Q. So you would be giving the club the  
8 money that you owed to the club, that you had  
9 been holding --

10 A. Uh-huh.

11 Q. -- during your shift? So then each  
12 night when you left the club, you went home with  
13 all the tips you had earned during the shift,  
14 other than what you tipped out?

15 MR. FREDERICKS: Objection. Assumes  
16 facts not in evidence. You could answer  
17 the question.

18 THE WITNESS: Huh?

19 MR. FREDERICKS: Answer the  
20 question.

21 A. I'm sorry. Could you repeat that.

22 MS. SHEINKIN: Would you mind  
23 reading it back.  
24



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1 (The requested testimony was  
2 read back.)

3  
4 A. Yes.

5 Q. And you tipped out, I believe you  
6 said, to bussers and runners and bartenders?

7 A. Uh-huh.

8 Q. How much, do you recall?

9 A. There was a percent for each one.

10 Q. And did you do that before or after  
11 cashing out?

12 A. You do that after you cash out.

13 Q. Was that percent of your sales or  
14 percent of your tips?

15 A. Tips.

16 Q. I believe you testified that you  
17 worked at a party during your employment?

18 A. Uh-huh.

19 Q. Was it just one party or more than  
20 one?

21 A. I did -- private parties, probably  
22 more than one. But the one where I made the most  
23 money, it was just two of us in there.

24 Q. Okay. And did you receive tips for

1 for her tax, because she knows that you guys  
2 won't. So at least for the benefit of the club.

3 Q. So he said that Desiree had your  
4 paycheck?

5 A. He said that she keeps them. She  
6 claims them for her taxes.

7 Q. What did you understand him to mean  
8 by that?

9 A. I didn't really understand. I was  
10 still confused like, as of, you know, how could  
11 she do that.

12 Q. Did he explain that the amount of  
13 your wages was going to taxes that you owed?

14 A. No, he did not.

15 Q. And that's not what you  
16 understood --

17 A. No.

18 Q. -- him to be saying? Did you ever  
19 ask Desiree about it?

20 A. No, I didn't.

21 Q. Why not?

22 A. I didn't really ask her anything.

23 Q. When was that conversation with  
24 Charlie?

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1 the parties?

2 A. Yes.

3 Q. And did you receive -- strike that.

4 How often did you work more than 40  
5 hours in a week?

6 A. Probably, every week.

7 Q. So of the three weeks you may have  
8 worked at the club, you allege you worked more  
9 than 40 in each of those weeks?

10 A. Yes. To my knowledge, yes.

11 Q. Do you have any documents that would  
12 support that claim?

13 A. No, because I never got tax forms.  
14 I never received a W2.

15 Q. Did you receive any checks from the  
16 40/40 Club?

17 A. No, I did not.

18 Q. Did you receive any paychecks or pay  
19 stubs from the 40/40 Club?

20 A. No, I did not.

21 Q. Did you ever ask for one?

22 A. I asked Charlie. I asked him,  
23 aren't you supposed to give checks also? And he  
24 said, no. Desiree keeps them. She claims them

1 A. I'm not sure. But I had been  
2 working there a little while. And then I asked  
3 him that.

4 Q. Did he say anything else --

5 A. No.

6 Q. -- during that conversation?

7 A. He did not.

8 Q. Did you ask him any other questions?

9 A. No.

10 Q. I'm going to refer you back to the  
11 declaration, which we've marked as Exhibit A,  
12 Williams Exhibit A. In Paragraph 3, you say that  
13 you were employed from approximately November  
14 2005 through January 2006?

15 A. Uh-huh.

16 Q. Now, is it your recollection that  
17 you began in December of 2005?

18 A. Yes.

19 Q. And that you ended in December of  
20 2005?

21 A. Yes.

22 Q. Who did you speak with concerning  
23 the fact that you did not receive wages, what  
24 employees?

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1 (Williams Exhibit D,  
2 PAYROLL SHEET, was  
3 marked for identification.)  
4

5 **Q. Looking at Williams Exhibit D, do**  
6 **you recall receiving a check from the 40/40 Club**  
7 **in the amount of \$136?**

8 A. No, I do not.

9 **Q. Is it your testimony that you've**  
10 **never received any check from the 40/40 Club --**

11 A. Yes, it is.

12 **Q. -- in any amount?**

13 A. Never.

14 **Q. Were you ever required to pay for**  
15 **breakages or spills at the 40/40 Club?**

16 A. I know if you had to -- if you  
17 messed up on a drink and -- let's say like for  
18 instance, if someone orders a drink, and punch it  
19 in wrong, you'd have to pay for it at the end of  
20 the night because that's not what the customer  
21 ordered.

22 **Q. What's your basis for that**  
23 **statement?**

24 A. So far as breakages, I'm not sure

1 coke, something that she didn't order. She's  
2 like, no, I didn't order this. So I had to pay  
3 for it at the end of the night. I had to give  
4 her what she wanted, and I pay for it.

5 **Q. Wasn't there a function that you**  
6 **could void an order if you put it in wrong?**

7 A. Not that I know of. But I paid for  
8 it, so.

9 **Q. And do you recall who told you that**  
10 **you had to pay for it?**

11 A. One of the managers.

12 **Q. So you told him that you had put in**  
13 **the wrong order?**

14 A. Yeah.

15 **Q. And what did he say?**

16 A. Pay for it.

17 **Q. And do you recall what manager that**  
18 **was?**

19 A. No, I don't.

20 **Q. Do you recall when it occurred?**

21 A. Not a specific date, no.

22 **Q. How much did you pay?**

23 A. Probably about 15-, 16-, \$17,  
24 somewhere in between there.

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1 about that. But if you ordered something that a  
2 customer didn't want, you had to pay for that.

3 **Q. Did you ever have to pay for that?**

4 A. Yes, I had to pay for drinks before.

5 **Q. When did that occur?**

6 A. When I was working there. It  
7 happened often.

8 **Q. Who told you that you had to pay?**

9 A. When the managers tell you that.  
10 Like if you put something in, you have to pay for  
11 that. Unless you can resell it you pay for it.

12 **Q. What manager told you that?**

13 A. I don't remember which one, but that  
14 was the policy. Like if there was something, you  
15 sold a drink and it had ice in it. They usually  
16 take the ice out of it and try to resell it, so  
17 they didn't have to pay for it.

18 **Q. Do you have any specific**  
19 **recollection of a time when that occurred?**

20 A. Yes.

21 **Q. Tell me about it.**

22 A. I think a customer ordered -- I  
23 think she ordered rum and coke, and I think I  
24 gave her like vodka and coke or Hennessey and

1 **Q. For a -- was that a rum and coke,**  
2 **you said?**

3 A. Yes, something like -- I mean not  
4 specifically if that was the exact drink, but  
5 that was an example.

6 **Q. Well, what drink would be 15- or**  
7 **\$17?**

8 A. Well, their drinks are expensive all  
9 together, so --

10 **Q. Any other time?**

11 A. Not that I could think of right now,  
12 no.

13 **Q. Did you ever break anything?**

14 A. No.

15 **Q. Did you ever spill anything?**

16 A. Spills, I think someone bumped into  
17 me, and I may have like spilled like one of my  
18 shots, or something.

19 **Q. But you didn't have to pay for it?**

20 A. I bought them myself anyway so, to  
21 resell.

22 **Q. Can you explain that?**

23 A. Like, usually, if they have a party  
24 and you feel like you're not making enough tips.

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1 you could buy, like make shots and purchase them  
2 for like a small amount. And then charge the  
3 customer higher to make more money.

4 **Q. Is that because you received an**  
5 **employee discount on the shots?**

6 A. No.

7 **Q. Why would it be more expensive for**  
8 **the customer than for you?**

9 A. That's -- a lot of the servers did  
10 that. It was just to make more tips.

11 **Q. So you just charge the customer more**  
12 **than it cost?**

13 A. Yes.

14 **Q. Do you have knowledge concerning any**  
15 **other employee who had to pay the club for**  
16 **breakages or spills or wrong orders?**

17 A. No.

18 **Q. Did you ever have to pay a**  
19 **customer's bill with your own money?**

20 A. If they walked out, you'd have to  
21 pay for it.

22 **Q. Did that happen to you?**

23 A. No, it didn't.

24 **Q. Did a customer ever walk out without**  
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1 paying?

2 A. Not to me, no.

3 **Q. Do you have knowledge about any**  
4 **other employee who was required to pay a**  
5 **customer's bill?**

6 A. No, I don't.

7 **Q. In Paragraph 11, you also say that**  
8 **if a patron did not sign their credit card**  
9 **receipt, defendants retained the disputed tip for**  
10 **90 days.**

11 A. Yeah, because that's your fault that  
12 they didn't sign it. That's, you know, you being  
13 irresponsible, so you have to pay for that.

14 **Q. Did you ever have a customer not**  
15 **sign their credit card receipt?**

16 A. Not to my knowledge. I think I had  
17 them sign --

18 **Q. Are you aware of any other employee**  
19 **who had their tip retained for 90 days?**

20 A. No.

21 **Q. And you refer to Exhibit A to your**  
22 **document, where in this document do you see the**  
23 **policy that the club would retain a tip for 90**  
24 **days if a credit card was not signed?**

1 A. It doesn't say that. I still have  
2 my 40/40 pamphlets at home with all the policies.  
3 But I don't see that here.

4 **Q. You have a document with that**  
5 **policy?**

6 A. I'm sure it's in there. I have the  
7 books they gave like with the food, the prices,  
8 and then the employee manual.

9 **Q. So earlier when you said that you**  
10 **didn't have any documents concerning your**  
11 **employment at the 40/40 Club --**

12 A. That's the only thing. I didn't  
13 consider like a pamphlet, a work pamphlet, as a  
14 document, but yes, that is a document.

15 **Q. You have that?**

16 A. Yes.

17 **Q. Do you have any -- did you take any**  
18 **notes on it?**

19 A. No.

20 **Q. Do you have any other documents at**  
21 **home concerning, in any way, your employment at**  
22 **the 40/40 Club?**

23 A. No, just the book. That's it.

24 **Q. Did you ever complain about any of**  
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1 the issues raised in your complaint to anyone at  
2 the 40/40 Club?

3 MR. FREDERICKS: Objection. You can  
4 answer.

5 **Q. You can answer.**

6 A. No.

7 **Q. You didn't raise any of the issues**  
8 **at the staff meetings?**

9 A. No. I had like issues with servers  
10 being rude. Like I, you know, complained about  
11 that.

12 **Q. You complained about other**  
13 **co-workers, but not about any of the payroll**  
14 **practices of the 40/40 Club?**

15 A. No.

16 **Q. Do either Shawn Carter or Juan Perez**  
17 **have an office in the club?**

18 A. Juan.

19 **Q. Where's his office?**

20 A. Second floor. It's like the kitchen  
21 room upstairs also. It's like his office is in  
22 there.

23 **Q. Can you describe the office?**

24 A. I know it's like more than one

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1 office. I know there's -- in the kitchen, you  
2 walk in, and there's like the bartender -- the  
3 bartenders work right there. And you go up; you  
4 make a right, and there's like offices, a desk  
5 there. And I think there's another office in the  
6 back. But I just know about the desk and stuff  
7 right there in the front.

8 **Q. But that's not Juan Perez's desk?**

9 A. No. I think that's like usually  
10 where the secretary works. I know Desiree used  
11 to be there sometimes. Sometimes Juan would be  
12 there. But I think his office is further back,  
13 either -- there's like more rooms inside the  
14 rooms, so I don't know.

15 **Q. Okay. But Shawn Carter doesn't have**  
16 **an office?**

17 A. Not that I know of.

18 **Q. Do you know if Mr. Perez did in his**  
19 **office?**

20 A. No, I don't.

21 **Q. Do you know if he was doing work at**  
22 **all?**

23 A. No, I don't.

24 **Q. Have you met Mr. Perez?**

1 A. Yes.

2 **Q. How many times?**

3 A. Not that many times. I didn't  
4 really associate with him like that in the club.  
5 I didn't really see him that often.

6 **Q. Did you have any conversations with**  
7 **him?**

8 A. No.

9 **Q. Did he ever --**

10 A. One time I think, one of the servers  
11 had -- gave him some food, and she asked me to  
12 give him napkins. And that's probably like --  
13 that's about it.

14 **Q. Other than in a service capacity,**  
15 **did he ever instruct you to do anything?**

16 A. No.

17 **Q. Do you have knowledge of any**  
18 **employee that Mr. Perez has hired or promoted?**

19 A. No.

20 **Q. Do you have any knowledge of any**  
21 **employee that he's disciplined or terminated?**

22 A. No.

23 **Q. Do you have any knowledge of any**  
24 **club policies or procedures that he established?**

1 A. No, I don't.

2 **Q. Have you met Shawn Carter?**

3 A. No.

4 **Q. Had you ever seen him in the club?**

5 A. No.

6 **Q. Have you ever spoken with him?**

7 A. No.

8 **Q. Do you have any knowledge of any**  
9 **employee that Mr. Carter has hired or promoted?**

10 A. No.

11 **Q. What about any employee that he has**  
12 **disciplined or terminated?**

13 A. No.

14 **Q. Do you have knowledge of any club**  
15 **policies or procedures that he set?**

16 A. No.

17 **Q. Do you have any knowledge of any**  
18 **control at all that was exercised either by Mr.**  
19 **Carter or Mr. Perez?**

20 MR. FREDERICKS: Objection; form.

21 Vague. You can answer.

22 A. No.

23 **Q. Do you have knowledge of how**  
24 **employees, other than servers and bartenders,**

1 **were compensated?**

2 A. No.

3 **Q. Do you know if other employees were**  
4 **subject to the same policies that you were --**

5 A. Servers?

6 **Q. -- other than servers or bartenders?**

7 A. No, I don't.

8 **Q. Have you talked with any current or**  
9 **former employees, other than Candy, concerning**  
10 **your claims in this lawsuit?**

11 A. No.

12 **Q. Have you communicated at all with**  
13 **any of the other plaintiffs or opt-in plaintiffs**  
14 **in this lawsuit?**

15 MR. FREDERICKS: Objection.

16 Objection. Privileged. Don't answer.

17 MS. SHEINKIN: Whether she did or  
18 not is not privileged. And I believe she  
19 answered, no.

20 **Q. Are you aware that Lauren Cruz has**  
21 **withdrawn from this lawsuit?**

22 A. No.

23 **Q. Are you aware that Shawn Mohammad**  
24 **has withdrawn his participation from this**